

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

GEORGE A. TOLIVER,
 Plaintiff,

v.

LAS VEGAS METROPOLITAN POLICE
 DEPARTMENT et al.,
 Defendants.

2:15-cv-633-GMN-PAL

ORDER

I. DISCUSSION

On April 9, 2015, this Court entered an order directing Plaintiff to either file a fully complete application to proceed *in forma pauperis* or pay the full \$400 filing fee for a civil action within 30 days from the date of that order. (ECF No. 2 at 2). On June 2, 2015, this Court entered an order dismissing the case without prejudice because Plaintiff failed to comply with that order. (ECF No. 4 at 2). The Clerk of the Court entered judgment on June 3, 2015. (ECF No. 5).

On June 15, 2015, Plaintiff filed a motion for reconsideration. (ECF No. 6 at 1). Plaintiff states that he did file an application to proceed *in forma pauperis* on April 29, 2015 but forgot to put his case number on the filing. (*Id.*). He thought that the clerk's office would look up his case number and file it for him. (*Id.*). However, he acknowledges that his other case, 2:14-cv-906-RFB-GWF, also asked for an application to proceed *in forma pauperis* around the same time and the clerk's office may have filed the application to proceed *in forma pauperis* in that case. (*Id.*). Plaintiff now attaches a copy of the financial certificate that he filed on April 29, 2015 along with the brass slip from the mail room used to take money from his account for postage. (*Id.*). Plaintiff seeks to reopen the case. (*Id.*).

A motion to reconsider must set forth "some valid reason why the court should reconsider its prior decision" and set "forth facts or law of a strongly convincing nature to persuade the court to reverse its prior decision." *Frasure v. United States*, 256 F.Supp.2d 1180, 1183 (D. Nev. 2003).

1 Reconsideration is appropriate if this Court “(1) is presented with newly discovered evidence,
2 (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening
3 change in controlling law.” *Sch. Dist. No. 1J v. Acands, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). “A
4 motion for reconsideration is not an avenue to re-litigate the same issues and arguments upon which
5 the court already has ruled.” *Brown v. Kinross Gold, U.S.A.*, 378 F.Supp.2d 1280, 1288 (D. Nev.
6 2005).

7 The Court takes judicial notice that in case 2:14-cv-906-RFB-GWF there are multiple
8 applications to proceed *in forma pauperis* filed in that case. Specifically, Plaintiff did not enter the
9 case number on the application to proceed *in forma pauperis* docketed on May 5, 2015. (See
10 CM/ECF 2:14-cv-906-RFB-GWF No. 23 at 1). The clerk’s office entered case number 2:14-cv-906-
11 RFB-GWF on that application and docketed the application to proceed *in forma pauperis* in that
12 case. (*Id.*). The Court takes judicial notice that the application in question was signed by Plaintiff on
13 April 29, 2015. (*Id.* at 3).

14 The Court grants Plaintiff’s motion for reconsideration and reopens this case. The Court
15 further directs the Clerk of the Court to file the application to proceed *in forma pauperis* mistakenly
16 docketed in 2:14-cv-906-RFB-GWF at docket entry 23 and to file it in 2:15-cv-633-GMN-PAL. The
17 Court will screen the complaint (ECF No. 1-1) filed in 2:15-cv-633-GMN-PAL.

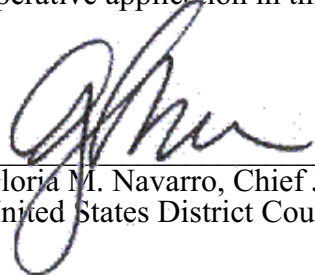
18 **II. CONCLUSION**

19 For the foregoing reasons, **IT IS ORDERED** that Plaintiff’s motion for reconsideration
20 (ECF No. 6) is **GRANTED**.

21 **IT IS FURTHER ORDERED** that the Clerk of the Court shall reopen this case.

22 **IT IS FURTHER ORDERED** that the Clerk of the Court shall file the application to
23 proceed *in forma pauperis* docketed in 2:14-cv-906-RFB-GWF at docket entry 23 in this case. That
24 application to proceed *in forma pauperis* will be the operative application in this case.

25 **DATED** this 17th day of June, 2015.

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27 
28 Gloria M. Navarro, Chief Judge
United States District Court